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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/040,989
Filing Date: January 07, 2002
Appellant(s): MANARD ET AL.

Mark Svat
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/16/2007 appealing from the Office action mailed 9/13/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,737,553	Bartok	4-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-12, 15, and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim limitation added to claim 10 at line 11 "or comparable color values" is not manifested and not conveyed by the originally filed specification to one of ordinary skill in the art. Applicants' specification's paragraph 0022 states "For example, whereas selection of red color resulted in a function of checking the paper stature, and selection of the blue color resulted in the function of checking the number of copies printed, the mapping of the colors in the system may be such that selection of both red and blue will cause the function of checking the paper status." and paragraph 0023 states "Then, and when the user wishes to map two or more colors to the same action, this may

be accomplished using the offscreen action map. Particularly, if in FIG. 2 only two actions are to be undertaken, then three of the colors (e.g., 18, 20, 22) could be mapped to the white colored box of the offscreen map (12) and the remaining three colors (24, 26, 28) to the black colors of the offscreen map (14). It is to be appreciated that this change is done only as an example and other arrangements could be used to accomplish this outcome. For example, if a look-up table were used, multiple colors may be associated with the same instruction." The specification discusses red and blue being used to result in the same function being performed and discusses using two or more colors to result in the same function being performed. However, the specification does not convey the scope of the claimed "comparable color values". Similarly, the specification does not define what is meant by the claimed "comparable color values".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-12, 15-18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipate by Bartok, US patent 5,737,553. The Bartok reference, after mapping process 332 is completed, does not alter the colormap image displayed during accessing step 334 and execution step 336. The claims of this application correspond to Bartok's accessing step 334 and execution step 336.

A detailed analysis of the claims follows.

Claim 1:

Bartok teaches a computer system performing interactive commands, comprised of:

an input responsive to an operator action (Figure 1, column 1 line 20-25 and column 5 line 24-30, keyboard 18, and mouse 20);

an output for performing a computer program function (Output ports 34 for connecting to various output devices in addition to display 14. Column 14 lines 5-10 discuss a computer output function.);

an operator graphical interface including a pixel color map (Color image 60. Column 6 lines 10-21 and column 7 lines 61-65 discuss color image 60. Likewise a map is discussed at column 3 lines 21-26 and column 12 lines 19-27. Similarly at column 8 line 23-27 teaches the pixel color map may be an off-screen bitmap.) supported on the computer system, displayed on a computer monitor display screen (14) and being engaged by the operator via the input (16) configured to selectively map (Changing activate to map in the 6/21/2006 amendment does not differentiate this claim from Bartok since when Bartok's computer correlate a pixel color to a computer function the computer is mapping the pixel color to a computer function.) at least one sensitive region on the display screen (Any color of the image may be mapped to a computer implemented function. Refer to the abstract, column 7 lines 61-65, column 8 lines 40-50 and 58-60, and column 14 lines 30-35.), and

wherein the at least one sensitive region is designated in the pixel color map without altering the pixel color map (This claim limitation corresponds to Bartok's

accessing step 334 and execution step 336 and not to the mapping process 332. Accessing step 334 and execution step 336 does not alter the color image displayed on the monitor.), the region associated with at least one pixel color value selected from the pixel color map currently displayed on the graphical interface which triggers the computer program function (Each pixel of the color image may trigger a computer implemented function corresponding to its color.).

Claim 2:

Bartok teaches the computer system according to claim 1, wherein the operator graphical interface includes files selected from the group of a GIF file, JPEG file, an HTML file, and an offscreen file because it teaches using any pixel based color image as the graphical interface. GIF, graphics interchange format, is a bit-mapped graphics file format. HTML file supports links to other documents, as well as graphics used by the World Wide Web that is also supported by the graphics card of Bartok. JPEG forms a pixel based image on the display screen. The map is an offscreen file that corresponds a pixel's color to a computer implemented function.

Claim 3:

Bartok teaches the computer system according to claim 1, wherein the input is a computer mouse, a trackball, or a keyboard, whereby the

operator interface program samples and processes signals from the input (Column 4 lines 54-59 discuss mouse 20 and keyboard 18 and implicitly inherently teaches a trackball by including "other peripheral equipment required for operation".)

Claim 6:

The computer system according to claim 1, wherein the computer program function performs diagnostics (Column 4 lines 60-64 discusses computer functions which include diagnostics.).

Claim 7:

The computer system according to claim 1 , the pixel color map is an offscreen bitmap (Column 8 line 23-27 teaches the pixel color map may be an off-screen bitmap. Similarly column 3 lines 21-26 teaches using color indices as an off-screen bitmap since an index for each pixel number will be required.).

Claim 8:

The computer system according to claim 1, wherein an algorithm is mapped to a specific pixel color value and performs a particular computer program function (Column 4 lines 60-64, column 6 line 64 to column 7 line 4, and column 7 lines 61-65 teach each pixel color is mapped to a corresponding computer implemented function.).

Claim 9:

The computer system according .to claim 8, wherein a plurality of algorithms are mapped to a plurality of pixel color values (Column 4 lines 60-64, column 6 line 64 to column 7 line 4, and column 7 lines 61-65 teach each pixel color is mapped to a corresponding computer implemented function.).

Claims 10 and 17:

These claims are similar to claim 1 and they are rejected for the reasons given for claim 1 and additionally discontinuous hot spots are discussed at column 7 line 61 to column 8 line 5 and column 14 lines 30-35 which teaches "mapping all regions of said pixel color map image that comprise the at least one color value... as the selected region with the computer program" of claim 10 and which teaches "mapping an algorithm to all occurrences of the at least first pixel color value including occurrences of the at least first pixel color value outside of the selected region without altering the pixel color map image" of claim 17.

Claim 11:

This claim corresponds to claim 8.

Claim 12:

This claim corresponds to claim 9.

Claim 15:

This claim corresponds to claim 7.

Claim 16:

This claim corresponds to claim 6.

Claim 18:

This claim corresponds to claim 6.

Claim 21:

This claim corresponds to claim 9.

(10) Response to Argument

Appellant argues at page 8 that a "difference between Bartok and the present application is that Bartok creates hotspot objects, first defining their shape and position, while the present applicant does not; the present application designates a hotspot by its color". This argument as well as the entire introductory argument is not persuasive because Bartok only uses the color of a hotspot object to determine the function the computer will perform when a user selects a hotspot, refer to the abstract, column 3 lines 1-9 and 21-26, column 4 lines 35-40, column 9 lines 28-35, and column 14 lines 1-9 without using the shape and position of the hotspot to determine the function. In Bartok and Appellant only the color of the hotspot determines the function the computer

will perform when a user selects a hotspot. In Bartok's and Appellant's system and method an image is created such as Bartok's office desk illustrated in figure 2 and such as Appellant's status indicators discussed in paragraph [0025] in the last six lines which states: "Other alternative represented images includes but not limited thereto, are status indicators such as toner levels, job complete status etc., which allows the operator to interact with complex and sophisticated technologies through the intuitive nature of the images. An operator interacts with the computer system by selection of a desired image via a pointing device, which activates sensitive regions of the image based on pixel color values." in order to allow the operator to interact with the operator interface of the computer. In Bartok, after the hotspot and its corresponding color defined computer functions have been defined in steps 340-350 for an image 60, the created image 60 can be displayed at any time, refer to column 13 lines 52-55, and used as the operator interface of the computer in the same manner that appellant uses the image having the "status indicators" as the operator interface of the computer. Therefore, the time when Bartok displays image 60 and performs steps 352-362 within the entire process of creating the operator interface image and displaying the operator interface is also the time when appellant's displays the image of the status indicators and performs appellants steps 102-114 or 202-216 within the entire process of creating the operator interface image and displaying the operator interface. Thus, appellants arguments are not persuasive.

Additionally the examiner notes the claims are drafted as open ended "comprising" claims, see MPEP 2111.03 Transitional phrases, thus, a reference that

describes system elements or method processes previous to the claimed elements or steps as well as the claimed elements or steps teaches the claim.

A. Claims 1-3, 6-12, 15-18, and 21

1. Claim 1, and Claims 2, 3, 6-9, and 21 dependent therefrom

Appellant argues on page 9 that "claim 1 includes the limitation that the invention does not alter the pixel color map during program operation.". However, Bartok may alter a color image 60 and associated color map 102, 104 during steps 340-350 during the image creation process, but, after the process is completed the image 60 and associated color map 102, 104 is not altered, see column 13 lines 52-55. In a similar manner appellant in view of appellants paragraph [0025] in the last six lines create the color map with positions and shapes corresponding to "status indicators such as toner levels, job complete status etc., which allows the operator to interact with complex and sophisticated technologies through the intuitive nature of the images". Thus, during steps 352-362 Bartok does not alter the color map when the image 60 is displayed as a pixel color map operator interface in the same manner that appellant does not alter the color map when the color image of the status indicators are displayed as a pixel color map operator interface.

2. Claim 10 and Claims 11, 12, 15, and 16 dependent therefrom

The argument in the first paragraph under this heading is not persuasive for the reasons given above for claim 1 because when the operator in Bartok interacts with the

displayed color image 60 the corresponding pixel color map 102, 104 is not changed, refer to column 8 line 61 to column 9 line 22 and column 13 lines 52-63.

The argument in the paragraph spanning pages 9 and 10 is not persuasive because Bartok does teach at column 7 lines 62-65 discontinuous hotspots, thus, Bartok teaches the hotspots are defined by color rather than the argued position.

The argument in the following paragraph is not persuasive because depending upon the image the user selects for the operator interface the painting step is not mandatory, refer to column 6 lines 10-21, 33-40, and 53-57 as well as column 8 lines 41-45 since any painting of an object is decided by the user.

The argument on page 11 is not persuasive since the painting step of the objects used in Bartok's operator interface is dependent upon the user and the image to be used as the operator interface in the same manner that appellant determines the color and image of the object forming each of the status indicators in appellants operator interface discussed in appellants paragraph [0025].

3. Claim 17, and Claim 18 dependent therefrom

Appellant first argues "Claim 17 calls for determining at least a first pixel color value at a desired region that occurs in the desired region without altering the pixel color map, and mapping an algorithm to all occurrences of the at least first pixel color value, including occurrences of the at least first pixel color value outside of the selected region, without altering the pixel color map image. Bartok does not anticipate these aspects of claim 17." This argument is not persuasive because Bartok as discussed above does

not alter the pixel color map 102, 104 after the image 60 has been created and because Bartok discusses discontinuous hotspots at column 7 lines 62-65.

Appellant in the same paragraph next argues "Bartok alters the pixel color map in the hot spot object painting step (col. 12, lines 60-61; FIG. 7,346). Since claim 17 calls for selecting and mapping without altering the image, Bartok does not anticipate claim 17 as it paints the hotspot objects unique colors after they have been designated." This argument is not persuasive because Bartok as discussed above does not alter the pixel color map 102, 104 after the image 60 has been created and because appellant as discussed above does not alter appellant's pixel color map after appellant creates an image having the status indicators discussed in appellants paragraph [0025].

B. Claims 10-12, 15, and 16

Appellant argues that the reference in paragraph [0019] to "different colors and shades of colors" supports the claim limitation "color value or comparable color values". This argument is not persuasive because the term "comparable color values" means color values in addition to shades of colors, such as different color spaces, for example: RGB, CMY, YIQ, HSV, HLS, etc. see pages 584-595 in the book Foley et al., Computer Graphics Principles and Practice second edition in C, July 1997, and such as different associations of colors for example: complimentary colors, analogous colors, triad colors, etc, see the web page titled Idea Gallery Color Trends 6/29/2007 found at http://www.flood.com/Flood/DIY/IdeaGallery/Trends/Color+Wheel+Color+Trends.htm, and see Joan R. Truckenbrod, Effective use of color in computer graphics, 1981,

International Conference on Computer Graphics and Interactive Techniques, Proceedings of the 8th annual conference on Computer graphics and interactive techniques, pages 83-90 noting page 84 section 2.3 and page 88 section 3.3. Therefore the claim language added by the 6/21/2006 amendment "or comparable color values" is not supported by the originally filed specification due to its breadth.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Attached: PTO-892